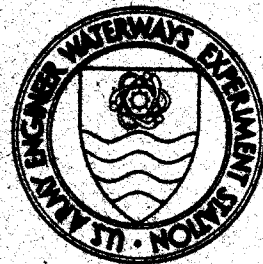


DREDGED MATERIAL RESEARCH PROGRAM



TECHNICAL REPORT D-78-55

EVALUATION OF LAWS AND REGULATIONS IMPACTING THE LAND USE OF DREDGED MATERIAL CONTAINMENT AREAS

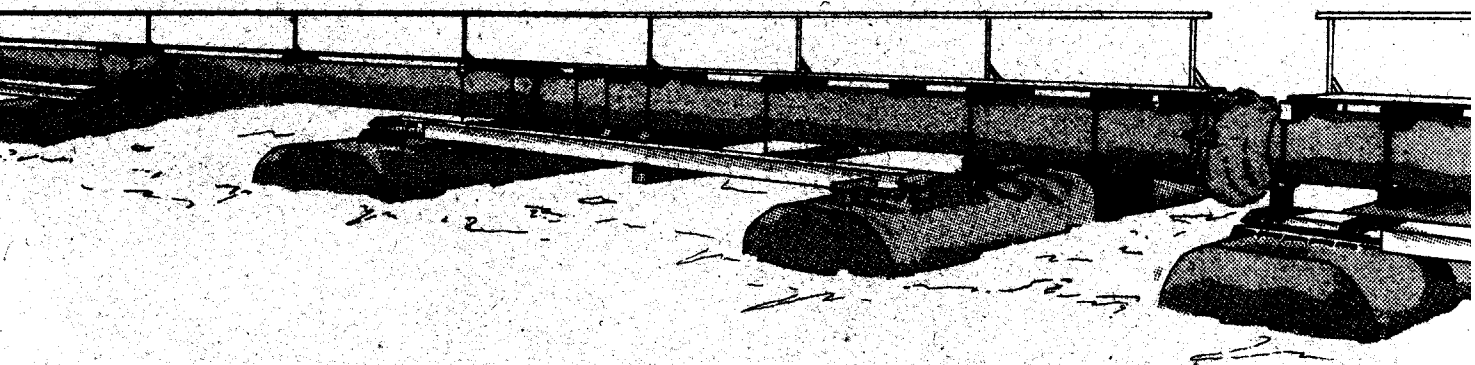
by

James Cole, Michael Brainard
Science Applications, Inc.
Environmental Sciences Division
La Jolla, Calif. 92038

September 1978

Final Report

Approved For Public Release; Distribution Unlimited



Prepared for Office, Chief of Engineers, U. S. Army
Washington, D. C. 20314

Under Contract No. DACW39-77-C-0026
(DMRP Work Unit No. 5D04)

Monitored by Environmental Laboratory
U. S. Army Engineer Waterways Experiment Station
P. O. Box 631, Vicksburg, Miss. 39180

**Destroy this report when no longer needed. Do not return
it to the originator.**



DEPARTMENT OF THE ARMY
WATERWAYS EXPERIMENT STATION, CORPS OF ENGINEERS
P. O. BOX 631
VICKSBURG, MISSISSIPPI 39180

IN REPLY REFER TO: WESEV

31 October 1978

SUBJECT: Transmittal of Technical Report D-78-55

TO: All Report Recipients

1. The technical report transmitted herewith represents the results of one of several research efforts (work units) undertaken as part of Task 5D, Disposal Area Land Use Concepts, of the Corps of Engineers' Dredged Material Research Program (DMRP). The objective of Task 5D, part of the Productive Uses Project (PUP), was to obtain information to facilitate planning and implementation of concepts for the ultimate productive use of dredged material containment areas.

2. Because of constraints on the open-water disposal of dredged material, the Corps of Engineers has had to resort more and more to land disposal. Land for disposal activities is becoming scarce and the problem becomes more acute with the need for selecting each new disposal area. Attention, therefore, can be profitably and justifiably directed toward identifying disposal concepts that enhance rather than degrade available land.

3. Some DMRP work units under other tasks were designed to develop improved disposal facility operation and management procedures as well as develop techniques for the reclamation of potentially valuable materials. Both objectives would increase disposal area life expectancy as well as enhance aesthetic and environmental characteristics. However, all sites will eventually be filled and the total picture would be incomplete without considering the concepts for the productive uses of the created land. To this end, most of the problems associated with the land use of dredged material containment areas relate to a planning rather than an engineering function. This particular research effort was one of five work units designed to assess the economic, technical, environmental, institutional, legal, and social incentives and constraints for the development of a rational basis for site selection, the ultimate land use, and the management of the created land. The primary purpose of this study was to identify and evaluate the legal framework within which the Corps of Engineers must work to implement productive land use concepts on dredged material containment sites.

4. A survey approach was used in which Federal, state, and local laws, regulations, and ordinances that could significantly impact proposed uses of dredged material containment areas were assembled for analysis. This

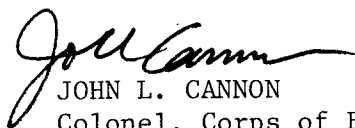
WESEV

31 October 1978

SUBJECT: Transmittal of Technical Report D-78-55

survey included all Federal legislation, legislation from 16 states, and ordinances and regulations from selected cities and counties within the 16 states. The study was designed to assess not only the present status but also the future legislation trends that might be expected to affect the land use of dredged material containment areas.

5. This report presents a summary of existing land use legislation impacting land areas. With regard to the contents of the report, a general caution is urged for planners and engineers engaged in productive use planning for dredged material containment areas that have been filled to capacity. This caution applies primarily to the portion of the report that addresses Federal legislation. The descriptions of most items of Federal legislation will be found to be excessively detailed by some readers and it is felt they do not adequately establish identifiable connections between each legislative citation and the concept of disposal-productive uses. The discussions of institutional arrangements and trends in the law are also considered to lack specific connection with the disposal-productive uses concept. The reader is urged to augment his reading with Technical Report DS-78-20, the synthesis of research accomplished under Task 5D: Disposal Area Land Use Concepts, which develops and elaborates on the connection between a select number of significant pieces of legislation and disposal-productive uses.



JOHN L. CANNON
Colonel, Corps of Engineers
Commander and Director

Unclassified

SECURITY CLASSIFICATION OF THIS PAGE (When Data Entered)

REPORT DOCUMENTATION PAGE		READ INSTRUCTIONS BEFORE COMPLETING FORM
1. REPORT NUMBER Technical Report D-78-55	2. GOVT ACCESSION NO.	3. RECIPIENT'S CATALOG NUMBER
4. TITLE (and Subtitle) EVALUATION OF LAWS AND REGULATIONS IMPACTING THE LAND USE OF DREDGED MATERIAL CONTAINMENT AREAS		5. TYPE OF REPORT & PERIOD COVERED Final report
		6. PERFORMING ORG. REPORT NUMBER
7. AUTHOR(s) James Cole Michael Brainard		8. CONTRACT OR GRANT NUMBER(s) Contract No. DACW39-77-C-0026
9. PERFORMING ORGANIZATION NAME AND ADDRESS Science Applications, Inc. Environmental Sciences Division La Jolla, Calif. 92038		10. PROGRAM ELEMENT, PROJECT, TASK AREA & WORK UNIT NUMBERS DMRP Work Unit No. 5D04
11. CONTROLLING OFFICE NAME AND ADDRESS Office, Chief of Engineers, U. S. Army Washington, D. C. 20314		12. REPORT DATE September 1978
		13. NUMBER OF PAGES 265
14. MONITORING AGENCY NAME & ADDRESS (if different from Controlling Office) U. S. Army Engineer Waterways Experiment Station Environmental Laboratory P. O. Box 631, Vicksburg, Miss. 39180		15. SECURITY CLASS. (of this report) Unclassified
		15a. DECLASSIFICATION/DOWNGRADING SCHEDULE
16. DISTRIBUTION STATEMENT (of this Report) Approved for public release; distribution unlimited.		
17. DISTRIBUTION STATEMENT (of the abstract entered in Block 20, if different from Report)		
18. SUPPLEMENTARY NOTES		
19. KEY WORDS (Continue on reverse side if necessary and identify by block number) Containment areas Regulations Dredged material disposal Waste disposal sites Evaluation Land use Laws		
20. ABSTRACT (Continue on reverse side if necessary and identify by block number) The principal areas of investigation were those laws and regulations of Federal, state, or local origin which have the effect of encouraging or discouraging productive end uses of new land created by the confined disposal of dredged material produced by navigation channel improvement projects. A search was made for all Federal laws and regulations and the laws of the 16 states in which most of the confined disposal activities are taking place. The <div style="text-align: right;">(Continued)</div>		

20. ABSTRACT (Continued).

charters and regulations issued by the port districts or port authorities in the 16 states were also reviewed.

All laws and regulations that were found that could have an impact on land use decisions, including procedures for preparation and review of environmental impact assessments, are summarized in this report. The most restrictive provisions were incorporated into a series of scenarios for the application of permits to make productive uses of filled dredged material containment areas, and these were analyzed to assist in the development of strategies for overcoming the legal constraints on end use of this land.

All of the provisions in the law that tend to promote productive uses of land created by dredge-fill operations are summarized, and these were used in structuring the viable strategies for overcoming constraints noted in other jurisdictions. The conclusions and recommendations include approaches to the incorporation of a dredged material containment area "location and end use" element in the Level A, B, and C plans for river basins, produced under the Federal Water Pollution Control Act 1972 Amendments and the 1965 Water Resources Planning Act. This section of the report includes guidelines for the preparation of a model statute that might be sponsored by the Corps of Engineers, which, if enacted by the states in which confined disposal is practiced, would provide for coordinated multiagency processing of land use applications and would provide other incentives for productive use of all land created by the dredge-fill operations of the Corps of Engineers.

The reader is urged to augment his reading with Technical Report DS-78-20, the synthesis of research accomplished under Task 5D: Disposal Area Land Use Concepts, which draws a strong connection between a select number of significant pieces of legislation and disposal-productive uses.